

REMARKS

Claims 1-49, 52, 53, 62 and 63 have been cancelled. Claims 50, 60 and 70 have been amended. No new matter has been added. Thus, claims 50, 51, 54-61 and 64-70 are now pending in this application. It is respectfully submitted that all of the pending claims of the present application are in condition for allowance.

The Examiner objected to the specification because no antecedent support exists for any of the “means plus function” terminology in the claims. In a claim, “means plus function” is a statutorily approved way of claiming an apparatus in terms of its functions. Under 35 U.S.C. § 112, ¶6, a claim element written as a means for performing a function is to be interpreted as covering the corresponding structure described in the specification for performing that function, and equivalents thereof. When a claim recites an element as a “means for” doing something, that is a statutorily accepted way of claiming an invention according to its function. Since the statute mandates that such an element covers the corresponding structure in the specification and its equivalents, then antecedent support for a “means plus function” elements exists so long as the specification discloses the function and at least one structure for performing that function. Since the specification here discloses the functions recited in claim 70 and the structures for carrying them out, no antecedent basis problem exists. Accordingly, withdrawal of this objection is requested.

Claim 70 stands rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Applicants respectfully disagree. The Examiner asserts that claim 70 is directed to a computer program per se, but that assertion is hard to square with the actual language of the claim. Claim 70 is a means plus function claim. That means it is directed to an apparatus, that is, something tangible and, thus, not a computer program per se. Since claim 70 is directed to an apparatus, it falls within the scope of 35 USC § 101.

Claims 50-52, 55, 56, 60-62, 65, 66, and 70 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,280,527 to Gullman et al. Claims 54, 57-59, 64, 67-69 stand rejected under 35 U.S.C. § 103(a) as obvious over Gullman in view of U.S. Patent No. 5,638,444

to Chou et al. Claims 53 and 63 stand rejected under 35 U.S.C. § 103(a) as obvious over Gullman in view of U.S. Patent No. 6,684,261 to Orton et al.

Applicants have amended claims 50 and 70 to recite the limitations of claims 53, and claim 60 to recite the limitations of claim 63. Claims 53 and 63 had been rejected based on Gullman in view of Orton. The Examiner believes that column 19, lines 25-45, of Orton teaches the feature of “the entry of the duress password replac[ing] the data of the memory with non-sensitive data.” Applicants disagree. The passage from Orton reads as follows:

Mach exports the notion of the host, which is essentially an abstraction for the computer on which it is executing. Various operations can be performed on the host depending on the specific port rights that a task has for the host. Information that is not sensitive can be obtained by any task that holds a send right to the host name port. Examples of such information include the version of the kernel or the right to gain access to the value of the system clock. Almost all other information is considered sensitive, and a higher degree of privilege is required to get or manipulate the information. This added level of privilege is implied when a task holds a send right to the host control port (also known as the host privilege port). This right must be given out very carefully and selectively to tasks, because having this right enables a task to do virtually everything possible to the kernel, thus by-passing the security aspects of the system supported by the IPC services. Various operations can be performed with this added privilege, including altering the system's clock setting, obtaining overall performance and resource usage statistics for the system, and causing the machine to re-boot.

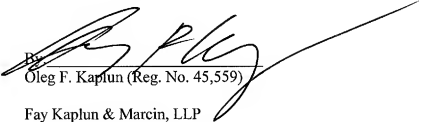
The passage mentions “information that is not sensitive,” but it never states that this information replaces the data of a memory when a duress password is entered.” In fact, the passage does not mention the non-sensitive information being used to replace any information at all. Therefore, in view of this discussion, allowance of the claims is requested.

CONCLUSION

In view of the above remarks, it is respectfully submitted that all the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: August 27, 2008

By 
Oleg F. Kaplun (Reg. No. 45,559)

Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, New York 10038
Tel: (212) 619-6000
Fax: (212) 619-0276